



DEC 11 2014

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MEMORANDUM

Management Services Memo No. 15-025

**DATE:** DECEMBER 11, 2014

**TO:** MAYOR AND COUNCIL

**THRU:** RICH DLUGAS, CITY MANAGER *RD*  
 NACHIE MARQUEZ, ASSISTANT CITY MANAGER *NM*

**FROM:** DAWN LANG, MANAGEMENT SERVICES DIRECTOR *DL*

**SUBJECT:** RESOLUTION NO. 4828 AUTHORIZING A MODIFICATION TO THE EXISTING INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND THE ARIZONA DEPARTMENT OF REVENUE TO ALLOW FOR COMPLIANCE WITH CHANGES MADE TO A.R.S. §42-6001 RELATED TO AUDITS

**RECOMMENDATION**

Staff recommends adoption of Resolution No. 4828 authorizing a modification to the existing Intergovernmental agreement between the City and the Arizona Department of Revenue to allow for compliance with changes made to A.R.S. §42-6001 related to audits.

**BACKGROUND**

On September 16, 2010, Council approved an intergovernmental agreement (IGA) between the City of Chandler and the Arizona Department of Revenue (ADOR) which established procedures and responsibilities related to the sharing of taxpayer information between the City and ADOR for the coordination of joint audits of taxpayers, and the administration, collection, and licensing of taxpayers subject to Transaction Privilege Tax (TPT), use tax, severance tax, jet fuel excise and use tax, and rental occupancy taxes imposed by the State or Cities or Towns.

In accordance with Chandler Tax Code Section 62-510, the City is allowed to share certain taxpayer information with other cities and towns in Arizona for the efficient administration of the various cities' transaction privilege and use tax programs. Section 62-510 also allows the City to share taxpayer information with ADOR for the same purposes, provided the City enters into an intergovernmental agreement with ADOR. A.R.S. §42-6001, et seq., requires the City to participate in joint auditing of taxpayers under certain circumstances and requires the sharing of taxpayer information for that purpose.

On June 25, 2013, House Bill (HB) 2111 passed the Arizona House and Senate and was signed into law by the Governor. The intent of this bill was to require ADOR to begin collecting the TPT for all municipalities beginning January 2015. It also required ADOR to be the single point of contact for TPT related issues and administer TPT audits of taxpayers beginning January 2015 with additional specific requirements of City auditors that must be included in an IGA.

The transition of collecting tax revenues to ADOR has since been delayed until 2016 as the Department does not have the necessary technological improvements ready for the transition. However, the legal requirement remains that ADOR administer the audit function for all cities in 2015 and set specific audit requirements that must be followed by City auditors and be included in an IGA. This modification to the current IGA allows Chandler to continue to perform TPT audits following the provisions and requirements outlined in HB 2111 now, since adopted into A.R.S. §42-6001, et seq. This will allow for compliance with State law related to TPT audits of taxpayers until such time a new IGA including all new provisions of HB 2111 is issued between Cities/Towns and ADOR.

**PROPOSED MOTION**

Move to adopt Resolution No. 4828 authorizing a modification to the existing Intergovernmental agreement between the City and the Arizona Department of Revenue to allow for compliance with changes made to A.R.S. §42-6001 related to audits.

Attachments: Resolution No. 4828  
Agreement Modification

c: Marsha Reed, Assistant City Manager  
Patrice Kraus, Intergovernmental Affairs Coordinator  
Matt Dunbar, Revenue and Tax Manager

**RESOLUTION NO. 4828**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING A MODIFICATION TO THE EXISTING INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND THE ARIZONA DEPARTMENT OF REVENUE TO ALLOW FOR COMPLIANCE WITH CHANGES MADE TO A.R.S. §42-6001 RELATED TO AUDITS**

WHEREAS, The Arizona Department of Revenue, hereinafter referred to as Department of Revenue and the City of Chandler, hereinafter referred to as City, have entered into an Intergovernmental Agreement regarding the administration of taxes imposed by the State or City dated 16<sup>th</sup> day of September 2010, hereinafter referred to as the IGA, and

WHEREAS, the Arizona Legislature has enacted legislation amending the provisions of A.R.S. §42-6001 et seq. that take effect January 1, 2015, and

WHEREAS, the Department of Revenue and City are negotiating a comprehensive intergovernmental agreement in accordance with the modified statutory provisions and enter into this modification to the IGA in order to provide an interim method for disclosure of information and audit until the comprehensive agreement is completed and executed.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council:

1. Approve the additional disclosure of information by the Department of Revenue to City, administration by the Department of Revenue of audit functions for the City's taxpayers based on provisions herein, and the merger of all other terms of the existing IGA to not conflict with this modification or the statutory amendments.
2. Approve the execution of the agreement by the Mayor; and
3. Authorize the City Manager to sign any documents, agreement amendments, or requests required to implement said agreement modification with Arizona Department of Revenue.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this \_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR:

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4828 as duly passed and adopted by the City Council of the City of Chandler, at a regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014 and that a quorum was present thereat.

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney (*KB*)

**MODIFICATION TO INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA AND CITY OF CHANDLER**

WHEREAS, The Arizona Department of Revenue, hereinafter referred to as Department of Revenue and the City of Chandler, hereinafter referred to as City, have entered into an Intergovernmental Agreement regarding the administration of taxes imposed by the State or City dated 16<sup>th</sup> day of September 2010, hereinafter referred to as the IGA, and

WHEREAS, The Arizona Legislature has enacted legislation amending the provisions of A.R.S. §42-6001 et seq. that take effect January 1, 2015, and

WHEREAS, the Department of Revenue and the City are negotiating a comprehensive intergovernmental agreement in accordance with the modified statutory provisions and enter into this modification to the IGA in order to provide an interim method for disclosure of information and audit until the comprehensive agreement is completed and executed.

The parties agree to modify the IGA as follows effective January 1, 2015:

**1. Additional Disclosure of Information by Department of Revenue to City.**

In addition to the information set forth in the IGA, and subject to the same constraints outlined in the IGA, the Department of Revenue shall provide to the City information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the Department of Revenue on behalf of any jurisdiction if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the Department of Revenue pursuant to A.R.S. §42-6002.

**2. Audits.** The Department of Revenue shall administer the audit functions for the City's taxpayers in accordance with the following provisions.

- 2.1 Standards:** All audits shall be conducted in accordance with standard audit procedures defined in the Department of Revenue audit manual.
- 2.2 Training:** All auditors shall be trained in accordance with the policies of the Department of Revenue.
- 2.3 Conflict of Interest:** An auditor that is trained and authorized to conduct an audit may not represent any taxpayer in any tax matter.
- 2.4 Single City or Town Audits:** City may conduct an audit of a taxpayer that is engaged in business only in City. Before commencing such audit, City shall notify the Department of Revenue.
- 2.5 Other Audits:** The Department of Revenue shall conduct all audits of taxpayers that have locations in two or more cities or towns unless the Department of Revenue expressly authorizes City to conduct such an audit.
- 2.6 Jurisdictions Included in Audit:** All audits shall include all taxing jurisdictions in this State regardless of which jurisdiction conducts the audit.

- 2.7 **Assessments:** The Department of Revenue shall issue all audit assessments on behalf of all taxing jurisdictions in a single notice to the taxpayer.
- 2.8 **Appeals:** Appeals of audit assessments shall be directed to the Department of Revenue and shall be administered pursuant to A.R.S. §42-1251 et seq.
- 2.9 **Notice:** The Department of Revenue shall notify City before entering into any compromise, closing, settlement or other agreement with a person related to the tax levied and imposed by the City.

3. **Merger.** All other terms of the IGA not in conflict with this Modification or the statutory amendments remain in full force and effect until the IGA is terminated.

4. **Signature Authority.**

31.1 By signing below, the signer certifies that he or she has the authority to enter into this Agreement and has read the foregoing and agrees to accept the provisions herein.

31.2 This Intergovernmental Agreement may be executed in counterpart.

Signature	Date	Signature	Date
Typed Name and Title		Typed Name and Title <b>City of Chandler</b>	
Entity Name		Entity Name	
		ATTEST:	
		BY: _____ CITY CLERK	
<b>RESERVED FOR THE ATTORNEY GENERAL:</b>		<b>RESERVED FOR CITY ATTORNEY:</b>	
Attorney General no. _____, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952 by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Arizona Department of Revenue represented by the Attorney General.  <div style="text-align: center;"><b>TOM HORNE</b> The Attorney General</div>		APPROVED AS TO FORM AND AUTHORITY:  BY: _____ CITY ATTORNEY ( <i>HB</i> )  Date: _____	
Signature Assistant Attorney General			
Date: _____			